



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,048	02/15/2001	Mark J. Pettay	259/298	4717

34263 7590 06/01/2004

O'MELVENY & MEYERS
114 PACIFICA, SUITE 100
IRVINE, CA 92618

EXAMINER

JACKSON, JAKIEDA R

ART UNIT	PAPER NUMBER
----------	--------------

2655

DATE MAILED: 06/01/2004

164

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/785,048

Applicant(s)

PETTAY, MARK J.

Examiner

Jakieda R Jackson

Art Unit

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 03 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 21-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 21-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4, 6-8, 10, 11.
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1 and 18 have been considered but are moot in view of the new ground(s) of rejection.

Response to Amendment

2. In response to the Office Action mailed February 17, 2004, applicant submitted an amendment filed on May 3, 2004. Applicant's amendments does overcome the original claims that were rejected under 102(e) as being anticipated by Surace and the 103(a) rejections as being unpatentable over Surace in view of Rtischev, however, a new ground of rejection has been applied in repose to the claims. Applicant has amended the claims wherein a *live* agent is interacting with a *live* customer, unlike Surace, which is a computerized agent that emulates a human. Also, the applicant amended the claim where the *live agent or human* is evaluated or analyzed based on the voice interaction.

3. The examiner acknowledges the following amendments:

- claims 1-2, 9-18, 23-27 amended
- claims 19-20 canceled

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 1-5, 7-9, 11-12, 15-18 and 21-25**, are rejected under 35 U.S.C. 102(e) as being anticipated by Walker et al. (U.S. Patent No. 6,567,787), hereinafter referenced as Walker.

Regarding **claim 1**, Walker discloses a script compliance method for evaluating compliance of a live agent (cashier interaction with a customer; column 1, lines 27-28) with a script (text of the prompt or verbal message) from which the live agent reads when conducting a voice interaction (cashier or operator) with a live customer (customer; column 7, lines 9-26 with lines 46-60), the method comprising at least the following:

conducting the voice interaction between the live agent (cashier or operator) and a live customer (customer) in accordance with a script (verbal message or text of the prompt; column 7, lines 9-26 with 46-60), and

evaluating data representing a portion of the voice interaction spoken by the live agent (determine whether signal satisfies criterion; column 7, lines 46-60) with an automatic speech recognition component (POS) adapted to analyze the portion of the

voice interaction (column 7, lines 61-65) and to determine a score (percentage of the times spoken properly) representing a degree with which the live agent complied with the script during the portion of the voice interaction (column 6, lines 24-30 with column 7, lines 46-55).

Regarding **claim 2**, Walker discloses the method wherein the live agent is a telemarketing agent (column 5, lines 40-45).

Regarding **claim 3**, Walker discloses the method wherein the script includes an offer of services (figure 6 and column 11, lines 30-32).

Regarding **claim 4**, Walker discloses the method wherein said voice interaction is carried on a communications network (column 3, lines 40-56).

Regarding **claim 5**, Walker discloses the method wherein said communications network is a publicly switched telephone network (telephone line; 3, line 52).

Regarding **claim 7**, Walker discloses the method wherein said communications network includes a wireless component (audio/electrical signals; column 4, lines 23-29).

Regarding **claim 8**, Walker discloses the method the voice interaction is a telephone call (column 5, lines 40-45).

Regarding **claim 9**, Walker discloses the method wherein said telephone call is initiated by said live customer client (column 5, lines 40-45 with column 12, lines 63-65).

Regarding **claim 11**, Walker discloses the method further comprising the step of: performing an action based (bonus earned) upon a determination obtained from said evaluating step (column 6, lines 24-39).

Regarding **claim 12**, Walker discloses the method but wherein performing an action comprises transmitting a signal (audio signal transmitted) to said live agent corresponding to said determination (column 9, line 59 – column 10, line 5).

Regarding **claim 15**, Walker discloses the method comprising:
reviewing the determination of the score (bonus based on percentage; column 6, lines 24-28).

Regarding **claim 16**, Walker discloses the method wherein the score (percentage; column 6, line 24-28) is assigned by the automatic speech recognition component (SCRAP; column 8, lines 6-11).

Regarding **claim 17**, Walker discloses the method further comprising dividing data representing the voice interaction into a plurality of panels (authorization level, number of transactions, transaction spoken properly, etc.; column 5, lines 46-67) and assigning a respective score (percentage) to each panel (column 6, lines 24-28).

Regarding **claim 18**, Walker discloses a system for evaluating compliance of a live agent (operator/cashier) with a script (text of prompt or verbal message) from which the live agent reads when conducting a voice interaction with a live customer (read allowed to customer; column 7, lines 46-60) via a communication network adapted to support the voice interaction (column 3, lines 40-56) the system comprising at least the following:

a script compliance module including at least an automatic speech recognition component (SCRAP; column 8, lines 6-11) adapted to analyze data representing a portion of the voice interaction (verbal message) spoken by the live agent (cashier or

operator), and to determine a score (percentage) representing a degree (spoken properly) with which the live agent complied with the script during that portion of the voice interaction (column 6, lines 24-28), and

means for causing one or more actions (bonus earned) to be taken based upon the determination (column 6, lines 24-39) by the automatic speech recognition component (SCRAPI; column 8, lines 6-11).

Regarding **claim 21**, Walker discloses the system comprising a call center including a plurality of agent workstations (POS terminals; figure 1, elements 14, 16 and 18 and one or more computers; column 3, lines 53-56)

Regarding **claim 22**, Walker discloses the system wherein said agent workstation includes a telephone (telephone) and a computer terminal (POS; column 5, lines 41-45).

Regarding **claim 23**, Walker discloses the method wherein the agent is a telemarketing agent (column 5, lines 40-45).

Regarding **claim 24**, Walker discloses the system wherein said agent is a customer service agent (column 1, lines 34-36).

Regarding **claim 25**, Walker discloses the system wherein said means for causing one or more actions (pause) comprises means for transmitting a signal to alive agent corresponding to said determination (column 2, lines 1-17).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 6, 13 and 26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Surace et al. (U.S. Patent No. 6,144,938), hereinafter referenced as Surace.

Regarding **claim 6**, Walker discloses a script compliance method but lacks the method wherein said communications network is the internet.

Surace discloses the method wherein said communication network is the internet (column 8, lines 51-58), to provide access to email, voicemail, fax etc.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify ~~Walker's invention~~ Walker's invention such that said communications network is the internet, to transmit requests for services that can be served by remote computers, for a flexible network (column 8, lines 55-58)

Regarding **claim 13**, Walker discloses a script compliance method but lacks wherein performing an action comprises transmitting a signal to a reviewing authority corresponding to said determination.

Surace discloses the method wherein performing an action comprises transmitting a signal to a reviewing authority corresponding to said determination (column 6, lines 58-64), to tabulate speech recognition errors.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Walker's invention such that it performs an action comprising transmitting a signal to a reviewing authority corresponding to said determination, to modify scripts to help coach a user to say phrases or commands that are within the recognition grammar (column 6, lines 58-63).

Regarding **claim 26**, Walker discloses a script compliance method but lacks wherein said one or more actions comprises means for transmitting a signal to a reviewing authority corresponding to said determination.

Surace discloses the method wherein said one or more actions comprises means for transmitting a signal to a reviewing authority corresponding to said determination (column 6, lines 58-64), to tabulate speech recognition errors.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Walker's invention such that it performs an action comprising transmitting a signal to a reviewing authority corresponding to said determination, to modify scripts to help coach a user to say phrases or commands that are within the recognition grammar (column 6, lines 58-63).

8. **Claim 10** is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Aviv (U.S. Patent No. 5,666,157).

Regarding **claim 10**, Walker discloses a script compliance method but lacks disclosing the method wherein said evaluating step includes the steps of:

converting data representing said voice interaction into a digital signal comprising a spectral representation of said voice interaction, comparing said digital signal to a reference standard comprising a known vocabulary, and matching said digital signal to words and phrases contained in said reference standard.

Aviv discloses that steps that includes:

disclosing the method wherein said evaluating step includes the steps of:

converting (processing) data representing said voice interaction into a digital signal comprising a spectral representation of said voice interaction (column 10, line 64 – column 11, line 22),

comparing (figure 4, element 46) said digital signal to a reference standard comprising a known vocabulary (column 10, line 64 – column 11, line 22), and

matching (figure 4, element 46) said digital signal to words and phrases contained in said reference standard (column 10, line 64 – column 11, line 22), in to have the best representation of the word.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Walker's invention such that it converts said voice interaction into a digital signal comprising a spectral representation of said voice

interaction, compares said digital signal to a reference standard comprising a known vocabulary, and matches said digital signal to words and phrases contained in said reference standard, to help recognize the different sounds, voices, accents etc. of each word for clarification.

9. **Claims 14 and 27** are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Rtischev et al. (U.S. Patent No. 5,634,086), hereinafter referenced as Rtischev.

Regarding **claims 14 and 27**, Walker discloses a script compliance method but lacks the method wherein performing an action comprises causing an entry to be made in a script compliance incentive system.

Rtischev discloses the method wherein performing an action comprises causing an entry to be made in a script compliance incentive system (instruction and evaluation system; column 2, line 63 – column 3, line 10), for evaluation.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Walker's invention such that it causes an entry to be made in a script compliance incentive system, to evaluate the performance while tolerating foreign accents and any other language fluency (column 2, lines 63-66).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- U.S. Patent No. 6,370,508 to Beck et al discloses an interface engine for managing business processes within a multimedia communication-center.
- U.S. Patent No. 6,401,066 to McIntosh discloses an automated third party verification system.
- U.S. Patent No. 6,058,303 to Astrom et al. discloses a system and method for subscriber activity supervision.
- U.S. Patent No. 6,501,956 to Weeren et al. provides blended interface for wireless information services.
- U.S. Patent No. 6,604,075 to Brown et al. discloses a web-based voice dialog interface.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

Art Unit: 2655

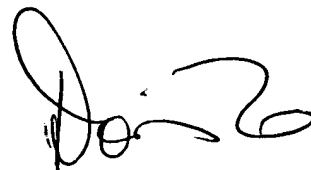
shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jakieda R Jackson whose telephone number is 703.305.5593. The examiner can normally be reached on Monday through Friday from 7:30 a.m. to 5:00p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on 703.305.4827. The fax phone number for the organization where this application or proceeding is assigned is 703.872.9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.305.4700.

JRJ
May 11, 2004

A handwritten signature in black ink, appearing to read 'Doris To', with a stylized flourish at the end.

**DORIS H. TO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600**